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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,924	06/22/2000	Kenneth A. Milnes	39744/PYI/S787	8016

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05/20/2005

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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/599,924	<b>Applicant(s)</b> MILNES ET AL.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 2/9/2005 have been fully considered but they are not persuasive.

The amended independent claims still read on the Lett reference of record. Additionally, previously allowed claims 32 and 37 have been amended and now read on Lett in view of Bedard of record.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 31, 35, 43-44 and 49 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lett et al. (U.S. Patent No. 5,592,551).

Referring to claim 31, Lett discloses storing data containing television schedule information (see Column 13, Lines 8-10 for storing an EPG transmitted from a headend in RAM), including titles of current and future television shows for particular channels in a computer readable memory (see titles of current shows (any show that can be

selected during 8:15 (current time)) and future shows (any show displayed after 8:15, such as Home Improvement, starting at 8:30)).

Lett also discloses displaying a plurality of cells listing a portion of a schedule guide based on said stored data (see Column 13, Lines 31-43 and Figure 5 for only displaying a portion of the schedule (from 8pm to 10pm)) and the television shows presently available for viewing over substantially all of a screen (see Figure 5 for multiple shows available for viewing).

Lett also discloses visually distinguishing portions of cells corresponding to portions of current television shows in play with a first visually distinguishing characteristic (see Figure 5 for all cells that are playing at 8:15, for example, Full House and Evening Shade play from 8pm to 8:30pm, therefore, these cells represent a show that is in play which contains a visually distinguishing characteristic based on the time the show is broadcast) from cells corresponding to future television shows and portions of cells corresponding to portions of current television shows yet to be played with a second visually distinguishing characteristic (see Figure 5 for future shows and current shows that have yet to be played, for example, Home Improvement and Major Dad play during 8:30pm to 9pm, therefore these shows play after a current time of 8:15pm and are therefore future or current shows that have yet to be played which contains a visually distinguishing characteristic based on the time the show is broadcast). The examiner notes that future shows and current shows (shows that are currently displayed in the EPG) are equivalent, because both reside in a time slot that is not playing during the current time (such as Major Dad).

Referring to claim 35, Lett discloses displaying a cell division line between television shows to indicate that a show is already in play (see Figure 5 for the division line between Full House and Home Improvement and note that since the current time is 8:15pm, then Full House is the current program in play and is divided by a division line to separate the future show (Home Improvement)).

Referring to claims 43 and 49, see the rejection of claims 31 and 35, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 32 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Bedard (U.S. Patent No. 5,793,438).

Referring to claim 32, Lett discloses all of the limitations in claim 31, but fails to teach that the first and second visually distinguishing characteristics comprise different background colors.

Bedard teaches a program guide (see Figure 5) that contains various cells that have visually distinguishing characteristics using icons or alternatively different colors (see Column 4, Lines 10-19).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide, as taught by Lett, using the different program guide cell color schemes, as taught by Bedard, for the purpose of providing a color that represents different programming categories in order to provide needed schedule information at a glance, and where the program guide operates intuitively (see Column 2, Lines 3-6 of Bedard).

Referring to claim 46, see the rejection of claim 32.

4. Claims 33 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Aristides et al. (U.S. Patent No. 5,657,072).

Referring to claim 33, Lett discloses that the TV schedule information is updated every half hour (see Column 13, Lines 21-23), but fails to teach updating the schedule information a few minutes before the half hour. Aristides discloses defining a peak time from 8:25 to 8:35 and updating the EPG before the peak time (a few minutes before the half hour) (see Column 7, Lines 49-61).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the updating of the schedule information every half hour, as taught by Lett, using the updating of the schedule information a few minutes before the half hour (before 8:25), as taught by Aristides, for the purpose of alleviate the bottleneck associated with handling many requests during peak activity (see Column 3, Lines 7-9 of Aristides).

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Referring to claim 47, see the rejection of claim 33.

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5. Claims 34 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Aristides et al. (U.S. Patent No. 5,657,072) in further view of Hamilton et al. (U.S. Patent No. 5,579,055).

Referring to claim 34, Lett and Aristides discloses all of the limitations in claims 31 and 33, but fail to disclose updating the schedule information approximately three minutes before the half hour. Hamilton discloses that an EPG can be updated at any time, therefore the update can inherently take place approximately three minutes before the half hour, along with every half hour and a few minutes before the half hour (see Column 12, Lines 39-43).

At the time the invention was made, it would have been obvious to modify updating the schedule information every half hour or few minutes before the half hour, as taught by Lett and Aristides, using the updating at any time, as taught by Hamilton, for the purpose of removing EPG data that has already been accessed and is no longer contains relevant program selections because the broadcast time has already passed (see step 504 in Figure 5 and Column 12, Lines 25-29 of Hamilton).

Referring to claim 48, see the rejection of claim 34.

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6. Claims 36, 40 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Marshall et al. (U.S. Patent No. 5,502,504).

Referring to claim 36, Lett discloses storing data containing television schedule information (see Column 13, Lines 8-10 for storing an EPG transmitted from a headend in RAM), including titles of current and future television shows for particular channels in a computer readable memory (see titles of current shows (any show that can be selected during 8:15 (current time)) and future shows (any show displayed after 8:15, such as Home Improvement, starting at 8:30)).

Lett also discloses displaying a plurality of cells listing a portion of a schedule guide based on said stored data (see Column 13, Lines 31-43 and Figure 5 for only displaying a portion of the schedule (from 8pm to 10pm)) and the television shows presently available for viewing over substantially all of a screen (see Figure 5 for multiple shows available for viewing).

Lett also discloses visually distinguishing portions of cells corresponding to portions of current television shows in play (see Figure 5 for all cells that are playing at 8:15, for example, Full House and Evening Shade play from 8pm to 8:30pm, therefore, these cells represent a show that is in play) from cells corresponding to future television shows and portions of cells corresponding to portions of current television shows yet to be played (see Figure 5 for future shows and current shows that have yet to be played, for example, Home Improvement and Major Dad play during 8:30pm to 9pm, therefore these shows play after a current time of 8:15pm and are therefore future or current shows that have yet to be played). The examiner notes that future shows and current shows (shows that are currently displayed in the EPG) are equivalent, because both reside in a time slot that is not playing during the current time (such as Major Dad).



Lett fails to disclose overlaying the schedule information on a current television show. Marshall discloses overlaying an EPG on a television program (see Figure 6). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by Lett, using the overlay device, as taught by Marshall, for the purpose of preventing a viewer from missing key portions of the program on the previously selected channel while selecting a new program to view (see Column 1, Lines 11-15 of Marshall).

Claim 40 corresponds to claim 36, where Lett discloses displaying a cell division line between television shows to indicate that a show is already in play (see Figure 5 for the division line between Full House and Home Improvement and note that since the current time is 8:15pm, then Full House is the current program in play and is divided by a division line to separate the future show (Home Improvement)).

Referring to claim 45, see the rejection of claim 36 for overlaying a program guide on the screen.

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7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Marshall et al. (U.S. Patent No. 5,502,504) further view of Bedard (U.S. Patent No. 5,793,438).

Referring to claim 37, Lett and Marshall disclose all of the limitation in claim 36, but fail to teach that the first and second visually distinguishing characteristics comprise different background colors.

Bedard teaches a program guide (see Figure 5) that contains various cells that have visually distinguishing characteristics using icons or alternatively different colors (see Column 4, Lines 10-19).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide with overlaying, as taught by Lett and Marshall, using the different program guide cell color schemes, as taught by Bedard, for the purpose of providing a color that represents different programming categories in order to provide needed schedule information at a glance, and where the program guide operates intuitively (see Column 2, Lines 3-6 of Bedard).

8. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Marshall et al. (U.S. Patent No. 5,502,504) further view of Aristides et al. (U.S. Patent No. 5,657,072).

Referring to claim 33, Lett and Marshall disclose that the TV schedule information is updated every half hour (see Column 13, Lines 21-23), but fails to teach updating the schedule information a few minutes before the half hour. Aristides discloses defining a peak time from 8:25 to 8:35 and updating the EPG before the peak time (a few minutes before the half hour) (see Column 7, Lines 49-61).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the updating of the schedule information every half hour, as taught by Lett and Marshall, using the updating of the schedule information a few minutes before the half hour (before 8:25), as taught by Aristides, for the purpose of

alleviate the bottleneck associated with handling many requests during peak activity (see Column 3, Lines 7-9 of Aristides).

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9. Claims 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Marshall et al. (U.S. Patent No. 5,502,504) in further view of Aristides et al. (U.S. Patent No. 5,657,072) in further view of Hamilton et al. (U.S. Patent No. 5,579,055).

Referring to claim 34, Lett, Marshall and Aristides discloses all of the limitations in claims 31 and 33, but fail to disclose updating the schedule information approximately three minutes before the half hour. Hamilton discloses that an EPG can be updated at any time, therefore the update can inherently take place approximately three minutes before the half hour, along with every half hour and a few minutes before the half hour (see Column 12, Lines 39-43).

At the time the invention was made, it would have been obvious to modify updating the schedule information every half hour or few minutes before the half hour, as taught by Lett, Marshall and Aristides, using the updating at any time, as taught by Hamilton, for the purpose of removing EPG data that has already been accessed and is no longer contains relevant program selections because the broadcast time has already passed (see step 504 in Figure 5 and Column 12, Lines 25-29 of Hamilton).

10. Claims 41, 44 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Florin et al. (U.S. Patent No. 5,621,456).

Referring to claim 41, Lett discloses all of the limitations in claim 31, but fails to teach that the first and second visually distinguishing characteristics comprise different fonts.

Florin discloses providing program listings with first and second distinguishing fonts (see Figure 18 for Channel 3 "College Football" being a smaller font than Channel 4 "Specials Tonight").

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide, as taught by Lett, using the different fonts, as taught by Florin, for the purpose of allowing the user to view more programming in the program guide, which provides a user-friendly mechanism for consumers to view, record and playback TV and A/V programs (see Column 2, Lines 24-26 of Florin).

Referring to claim 44, Lett discloses all of the limitations in claim 43, but fails to teach displaying the plurality of cells for viewing over substantially all of a screen.

Florin discloses showing a plurality of cells over substantially all of a screen in Figure 17.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide, as taught by Lett, using the different fonts, as taught by Florin, for the purpose of allowing the user to view more

programming in the program guide, which provides a user-friendly mechanism for consumers to view, record and playback TV and A/V programs (see Column 2, Lines 24-26 of Florin).

Referring to claim 50, see the rejection of claim 41.

11. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lett et al. (U.S. Patent No. 5,592,551) in view of Marshall et al. (U.S. Patent No. 5,502,504) in further view of Florin et al. (U.S. Patent No. 5,621,456).

Referring to claim 41, Lett and Marshall disclose all of the limitations in claim 31, but fail to teach that the first and second visually distinguishing characteristics comprise different fonts.

Florin discloses providing program listings with first and second distinguishing fonts (see Figure 18 for Channel 3 "College Football" being a smaller font than Channel 4 "Specials Tonight").

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program guide with overlaying, as taught by Lett and Marshall, using the different fonts, as taught by Florin, for the purpose of allowing the user to view more programming in the program guide, which provides a user-friendly mechanism for consumers to view, record and playback TV and A/V programs (see Column 2, Lines 24-26 of Florin).

### ***Conclusion***

**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


**13.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2611

May 11, 2005



CHRIS GRANT  
PRIMARY EXAMINER